United Nations A/HRC/S-26/2

General Assembly

Distr.: General
14 February 2017

Original: English

**Human Rights Council**
**Twenty-sixth special session**
14 December 2016

# Report of the Human Rights Council on its twenty-sixth special session

*Vice-President and Rapporteur*: Mr. Geert Muylle (Belgium)

GE.17-02256(E)

*1702256*

Please recycle

# I. Resolution adopted by the Human Rights Council at its twenty-sixth special session

## S-26/1. Situation of human rights in South Sudan

*The Human Rights Council,*

*Guided* by the purposes and principles of the Charter of the United Nations,

*Guided also* by the Universal Declaration of Human Rights, the African Charter on Human and Peoples' Rights and relevant human rights treaties,

*Emphasizing* that States have the primary responsibility for the promotion and protection of human rights,

*Recalling* Human Rights Council resolution 31/20 of 23 March 2016, in which the Council established the Commission on Human Rights in South Sudan, and all other previous Human Rights Council and Security Council resolutions and President's statements on South Sudan,

*Recalling also* all relevant decisions and communiqués of the African Union and the Intergovernmental Authority on Development,

*Acknowledging* that the Government of South Sudan has committed to cooperating with the Office of the United Nations High Commissioner for Human Rights, United Nations special procedures, and the Commission on Human Rights in South Sudan in the fulfilment of its mandate,

*Deeply concerned* by the allegations of human rights violations and abuses in the reports of the Secretary-General on South Sudan, the reports of the United Nations Mission in South Sudan, the interim report of the Panel of Experts on South Sudan[1] and the reports of the United Nations High Commissioner for Human Rights,[2]

*Deeply alarmed* by the statement of the Commission on Human Rights in South Sudan of 1 December 2016 that there is already a steady process of ethnic cleansing under way in several areas of South Sudan using starvation, gang rape and the burning of villages, and deeply alarmed also by the statement of the Special Adviser of the Secretary-General on the Prevention of Genocide of 11 November 2016 that there is a strong risk of violence escalating along ethnic lines, with the potential for genocide, in South Sudan,

*Concerned* by ethnically motivated incitement to hatred and violence by all sides, reports of targeting of civilians based on ethnicity, and sexual and gender-based violence becoming increasingly widespread,

*Deeply alarmed* at the escalation of violence in the former State of Central Equatoria, which has resulted in increased flows of refugees into neighbouring countries,

*Deeply concerned* about the deteriorating situation in South Sudan, which is marked by increasing fragility in the political, security and economic spheres, amid a deepening humanitarian crisis and atrocities committed since the outbreak of violence in December 2013, acute food insecurity, producing mass displacements within South Sudan and outside the country, access restrictions and other impediments to humanitarian assistance, while commending humanitarian agencies for their continued assistance to the affected populations, and urging all actors concerned to cooperate fully with humanitarian agencies,

[1] See S/2016/963.

[2] A/HRC/31/49 and A/HRC/31/CRP.6.

*Noting with grave concern* the conclusions of the United Nations Mission in South Sudan in its reports dated 8 May 2014 and 4 December 2015 and the report of the African Union Commission of Inquiry on South Sudan of 15 October 2014 that the violations and abuses of human rights and the violations of international humanitarian law that have been committed may constitute war crimes and crimes against humanity,

*Recalling* that the Government of South Sudan has the primary responsibility to protect all populations in the country from genocide, war crimes, ethnic cleansing and crimes against humanity,

*Gravely concerned* about ongoing reports of increased levels of sexual and gender-based violence and instances of conflict-related rape and gang rape, coupled with beating and abductions, including as reported by the Secretary-General to the Security Council in February 2016,[3] and including the sexual and gender-based violence committed against women and girls in July and August 2016 during the outbreak of fighting in Juba,

*Expressing grave concern* at the wholesale destruction of villages, the targeting of civilians and health-care facilities, the attacks on places of worship, the attack on the protection-of-civilians site of the United Nations Mission in South Sudan in Malakal on 17 and 18 February 2016, sexual violence against women exiting protection-of-civilians sites throughout the country, the continued obstruction and extortion of humanitarian assistance convoys and the wholesale looting and destruction of humanitarian compounds in the Greater Pibor Administrative Area, Unity and Upper Nile States and Juba,

*Condemning in the strongest terms* the violence that broke out between the Government and the armed opposition in early July 2016, and urging all parties to pursue the path of a peaceful resolution to the existing conflict,

*Condemning in the strongest terms also* all attacks against humanitarian personnel and facilities that have resulted in the death of at least 67 humanitarian personnel since December 2013, including the attack on the Terrain compound on 11 July 2016 and attacks against medical workers and facilities,

*Emphasizing* the inviolability of United Nations premises, and underlining that attacks against civilians and United Nations premises may constitute war crimes,

*Expressing grave concern* that civilians who sought safety in the protection-of-civilians site of the United Nations Mission in South Sudan have been attacked, killed, traumatized and displaced, and that serious damage was caused to the entire site, including to medical clinics and schools, which were burned down and destroyed,

*Recalling* the need for all parties to the conflict to allow and facilitate, pursuant to United Nations guiding principles of humanitarian assistance, including humanity, neutrality, impartiality and independence, the full, safe and unhindered access of relief personnel, equipment and supplies and the timely delivery of humanitarian assistance to all those in need, in particular to internally displaced persons and refugees,

*Recognizing* the importance of providing timely assistance and protection to survivors of sexual and gender-based violence, including sexual and reproductive health, psychosocial, legal and livelihood support and other multi-sectoral services for survivors of sexual and gender-based violence, taking into account the specific needs of persons with disabilities,

*Emphasizing* the importance of the rule of law as one of the key elements of conflict prevention, peacekeeping, conflict resolution and peacebuilding,

[3] S/2016/138.

*Expressing concern* that the situation in South Sudan continues to be characterized by impunity,

*Expressing particular concern* at the severe reduction of democratic space in South Sudan, including through the heightened restrictions on freedom of expression, peaceful assembly and association, including attacks on journalists and media workers, and the limitations on the operations of civil society, human rights defenders and the media, and stressing the responsibility of the Government to address these issues in accordance with the Agreement on the Resolution of the Conflict in the Republic of South Sudan,

*Recognizing* that transitional justice mechanisms are important elements in a national reconciliation process and in implementing the Agreement, including by addressing accountability, reparations, truth-seeking and guarantees of non-recurrence,

*Welcoming* the African Union Peace and Security Council communiqué of 26 September 2015, which, inter alia, reaffirmed the commitment of the African Union to combating impunity, reiterated condemnation of the violence and abuses committed by armed actors in South Sudan, and agreed to the establishment of an independent hybrid court pursuant to the Agreement, and in this regard inviting the Chairperson of the African Union Commission to take all steps necessary to establish this body,

*Underlining* the role that domestic, regional and international accountability mechanisms can play in assisting South Sudan to ensure accountability,

1. *Condemns* the ongoing violations and abuses of human rights and violations of international humanitarian law in South Sudan, including those involving alleged targeted killings, ethnically targeted violence, rape and other forms of sexual and gender-based violence, the widespread recruitment and use of children, arbitrary arrests and detention, alleged torture, arbitrary denial of humanitarian access and attacks on schools, places of worship, hospitals and United Nations and associated peacekeeping personnel, by all parties, also condemns the harassment and violence directed at civil society, human rights defenders, humanitarian personnel and journalists, and emphasizes that those responsible for violations and abuses of human rights and violations of international humanitarian law must be held accountable;

2. *Condemns in the strongest possible terms* the widespread sexual and gender-based violence, including rape and gang rape, which can be used as a weapon of war, in complete impunity, by all armed groups;

3. *Demands* that all actors put a halt to all violations and abuses of human rights and all violations of international humanitarian law, and strongly calls upon the Government of South Sudan to ensure the protection and promotion of human rights and fundamental freedoms;

4. *Welcomes* the report of the Office of the United Nations High Commissioner for Human Rights assessment team,[2] and takes note of the recommendations contained therein;

5. *Recognizes* the important role of the Joint Monitoring and Evaluation Commission, chaired by Festus Mogae, in monitoring and overseeing the implementation of the Agreement on the Resolution of the Conflict in the Republic of South Sudan and its ceasefire provisions, and urges all parties and international partners to engage constructively with the Commission and other bodies created by the Agreement;

6. *Stresses* that perpetrators of violations of international humanitarian law and violations and abuses of human rights, including any that amount to war crimes or crimes against humanity, should be held accountable;

7. *Calls upon* the Government of South Sudan to investigate all violations and abuses of human rights and violations of international humanitarian law and to hold those responsible to account, while affording fair trial protections to the accused and supporting victims and protecting potential witnesses before, during and after legal proceedings;

8. *Urges* the Government of South Sudan to take steps immediately to protect the rights to freedom of expression, peaceful assembly and association in accordance with its international human rights obligations, and to, among other things, ensure that members of civil society organizations and the media can operate freely and without intimidation;

9. *Strongly urges* all parties to end and prevent violations and abuses of human rights committed against children, and calls upon all parties to end immediately the unlawful recruitment of children and to release all children that have been unlawfully recruited to date;

10. *Recognizes* the important role that women play in building peace, and calls for the protection and promotion of the rights of women, their empowerment and participation in peacebuilding, conflict resolution and post-conflict processes, in accordance with Security Council resolution 1325 (2000) of 31 October 2000 and subsequent resolutions on women, peace and security, including Council resolution 2242 (2015) of 13 October 2015;

11. *Supports* the establishment of transitional justice institutions, including an independent hybrid court, and calls upon all parties to cooperate fully in the implementation of the Agreement on the Resolution of the Conflict in the Republic of South Sudan, including chapter V thereof;

12. *Calls upon* the Government of South Sudan to cooperate fully and constructively with, and to provide unhindered access to, the Office of the High Commissioner, the United Nations Mission in South Sudan and the Regional Protection Force, as well as regional, subregional and international mechanisms on the ground;

13. *Decides* to reaffirm the mandate of the Commission on Human Rights in South Sudan, with renewed emphasis on the need to establish the facts and circumstances of alleged violations and abuses of human rights with a view to ensure that those responsible are held to account, in order to present additional recommendations to the Council at its thirty-fourth session on ending impunity and ensuring accountability;

14. *Requests* the Commission on Human Rights in South Sudan, in response to the present special session, and as soon as feasibly possible, working with the wider United Nations system, to suggest priority recommendations for the Government of South Sudan to consider on how to end sexual and gender-based violence, urges relevant United Nations actors to assist in such implementation as appropriate, and urges the Government of South Sudan to appoint a special representative on sexual and gender-based violence;

15. *Requests* the Office of the High Commissioner to provide the full administrative, technical and logistical support needed to enable the Commission on Human Rights in South Sudan to carry out its mandate;

16. *Acknowledges* that the Government of South Sudan has cooperated with the Office of the High Commissioner, United Nations special procedures, and the Commission on Human Rights in South Sudan in the fulfilment of its mandate, including by authorizing travel to and within the country and providing meetings and relevant information, and calls upon the Government to continue to cooperate with the Office of the High Commissioner, United Nations special procedures, and the Commission in the fulfilment of its mandate;

17. *Requests* that representatives of the Office of the High Commissioner, the African Union, the Joint Monitoring and Evaluation Commission, the African Commission

on Human and Peoples' Rights and other stakeholders, as appropriate, be invited to discuss the situation of human rights in South Sudan and the steps taken by the Government of South Sudan to ensure accountability for human rights violations and abuses in an enhanced interactive dialogue at the thirty-sixth session of the Human Rights Council;

18. *Reiterates its request* for the Commission on Human Rights in South Sudan to present a comprehensive written report, in an interactive dialogue, to the Human Rights Council at its thirty-fourth session;

19. *Requests* that the report of the Commission on Human Rights in South Sudan be submitted to the Human Rights Council and then shared with the African Union and all relevant organs of the United Nations for consideration;

20. *Decides* to remain seized of the matter.

*2nd meeting*
*14 December 2016*

[Adopted without a vote.]

# II. Organization of work of the twenty-sixth special session

1. Pursuant to paragraph 10 of General Assembly resolution 60/251, and in accordance with rule 6 of the rules of procedure of the Human Rights Council as contained in the annex to Council resolution 5/1, the Council shall hold special sessions, when needed, at the request of a member of the Council with the support of one third of the membership of the Council.

2. On 9 December 2016, the Permanent Representatives of Albania, Paraguay and the United Kingdom of Great Britain and Northern Ireland to the United Nations Office at Geneva and the Representative of the United States of America to the Human Rights Council requested the convening of a special session of the Council on 14 December 2016 on the situation of human rights in South Sudan (see A/HRC/S-26/1).

3. The above-mentioned request was supported by 16 States Members of the Human Rights Council: Albania, Belgium, France, Georgia, Germany, Latvia, Mexico, the Netherlands, Panama, Paraguay, Portugal, the Republic of Korea, Slovenia, Switzerland, the former Yugoslav Republic of Macedonia and the United Kingdom of Great Britain and Northern Ireland. The request was also supported by 24 observer States of the Council: Australia, Austria, Bulgaria, Canada, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, Greece, Hungary, Ireland, Italy, Lithuania, Luxembourg, Malta, Norway, Poland, Romania, Slovakia, Spain, Sweden and the United States of America.

4. Subsequently, the request was also supported by the following Member and observer States: Argentina, Bosnia and Herzegovina, Iceland, Japan, Liechtenstein, Maldives, Montenegro and Ukraine.

5. As more than one third of the membership of the Human Rights Council supported the above-mentioned request, the President of the Council, following consultations with the main sponsors, decided to convene an open-ended informative consultation on the conduct and organization of the special session on 12 December 2016, and the special session on 14 December 2016.

## A. Opening and duration of the session

6. The Human Rights Council held its twenty-sixth special session at the United Nations Office at Geneva on 14 December 2016. It held two meetings during the session.

7. The twenty-sixth special session was opened by the President of the Human Rights Council.

## B. Attendance

8. The special session was attended by representatives of States Members of the Human Rights Council, observer States of the Council, observers for non-Member States of the United Nations and other observers, and observers for United Nations entities, specialized agencies and related organizations, intergovernmental organizations and other entities, national human rights institutions and non-governmental organizations.

## C. Officers

9. At its organizational session of the tenth cycle, on 7 December 2015, the Human Rights Council elected the following officers:

| | |
|---|---|
| *President* | Choi Kyong-lim (Republic of Korea) |
| *Vice-Presidents* | Jānis Kārkliņš (Latvia) |
| | Ramón Alberto Morales Quijano (Panama) |
| | Negash Kebret Botora (Ethiopia) |
| *Vice-President and Rapporteur* | Bertrand de Crombrugghe (Belgium) |

10. At its organizational meeting on the thirty-third regular session, held on 31 August 2016, in accordance with rules 9 and 13 of the rules of procedure of the Human Rights Council, the Council elected Geert Muylle (Belgium) as Vice-President and Rapporteur from the Group of Western European and other States, in order to replace Mr. Bertrand de Crombrugghe, whose term of office had ended.

11. The President and Vice-Presidents of the Human Rights Council also served as officers for the twenty-sixth special session.

## D. Organization of work

12. Pursuant to paragraph 124 of the annex to Human Rights Council resolution 5/1, an open-ended informative consultation was held on 12 December 2016 in preparation for the twenty-sixth special session.

13. At its 1st meeting, held on 14 December 2016, the Human Rights Council considered the organization of its work, including speaking time limits, which would be three minutes for statements by States Members of the Council and two minutes for statements by observer States of the Council, observers for non-Member States of the Council and other observers. The list of speakers would be drawn up in chronological order of registration. States Members of the Council would be given the floor first, followed by observer States and observers for United Nations entities, specialized agencies and related organizations, intergovernmental organizations and other entities, and observers of national human rights institutions and non-governmental organizations.

14. The special session was conducted in accordance with the relevant provisions contained in Human Rights Council resolution 5/1.

## E. Resolution and documentation

15. The resolution adopted by the Human Rights Council at its twenty-sixth special session is reproduced in chapter I of the present report.

16. The list of documents issued for the twenty-sixth special session is contained in the annex to the present report.

## F. Statements

17. At the 1st meeting, on 14 December 2016, the United Nations High Commissioner for Human Rights made a statement.

18. At the same meeting, the Chair of the Commission on Human Rights in South Sudan, Yasmin Sooka, made a statement.

19. Also at the same meeting, the Chair of the Coordination Committee of Special Procedures of the Human Rights Council, Yanghee Lee, made a statement on behalf of the Coordination Committee.

20. At the same meeting, the Special Adviser of the Secretary-General on the Prevention of Genocide, Adama Dieng, made a statement by video message.

21. Also at the same meeting, the representative of South Sudan made a statement as the State concerned.

22. At the same meeting, on the same day, statements were made by the following:

(a) States Members of the Human Rights Council: Albania, Belgium, Botswana, China, France, Germany, Kenya, Mexico, Netherlands (also on behalf of Rwanda), Nigeria, Portugal, Slovakia* (on behalf of the European Union and Albania, Bosnia and Herzegovina, Georgia, Iceland, Liechtenstein, Montenegro, the Republic of Moldova, the former Yugoslav Republic of Macedonia and Ukraine), Slovenia, Sudan* (on behalf of the Group of Arab States), Switzerland, the former Yugoslav Republic of Macedonia, United Kingdom of Great Britain and Northern Ireland, Venezuela (Bolivarian Republic of);

(b) Observer States of the Human Rights Council: Australia, Brazil, Canada, Costa Rica, Croatia, Egypt, Eritrea, Ireland, Italy, Japan, Lithuania, Luxembourg, New Zealand, Norway, Sudan, United States of America, Uruguay, Holy See;

(c) Observers for non-governmental organizations: CIVICUS – World Alliance for Citizen Participation, East and Horn of Africa Human Rights Defenders Project, Human Rights Watch, International Federation for Human Rights Leagues, Rencontre africaine pour la défense des droits de l'homme, United Nations Watch.

23. At the 2nd meeting, on the same day, a statement in exercise of the right of reply was made by the representative of Ethiopia.

## G. Action on the draft proposal

24. At the 2nd meeting, on 14 December 2016, the representatives of the United States of America (also on behalf of Albania, Paraguay and the United Kingdom of Great Britain and Northern Ireland) and Albania introduced draft resolution A/HRC/S-26/L.1, sponsored by Albania, Paraguay, the United Kingdom of Great Britain and Northern Ireland and the United States of America, and co-sponsored by Austria, Belgium, Bulgaria, Canada, Croatia, Czechia, Denmark, Finland, Germany, Ireland, Italy, Latvia, Lithuania, Luxembourg, the Netherlands, Norway, Poland, Romania, Slovakia and Sweden. Subsequently, Andorra, Argentina, Australia, Bosnia and Herzegovina, Chile, Cyprus, Estonia, France, Georgia, Greece, Hungary, Iceland, Liechtenstein, Malta, Monaco, Montenegro, New Zealand, Portugal, Slovenia, Spain, Switzerland, the former Yugoslav Republic of Macedonia and Ukraine joined the sponsors.

25. At the same meeting, on the same day, the representative of the United States of America orally revised the draft resolution.

26. Also at the same meeting, the representative of South Sudan made a statement as the State concerned.

27. At the same meeting, in accordance with rule 153 of the rules of procedure of the General Assembly, the attention of the Human Rights Council was drawn to the estimated administrative and programme budget implications of the draft resolution as orally revised.

* Observer of the Human Rights Council speaking on behalf of Member and observer States.

The Chief of the Programme Support and Management Services of the Office of the United Nations High Commissioner for Human Rights made a statement in relation to the budgetary implications of the draft resolution as orally revised.

28. Also at the same meeting, the representatives of China, the Russian Federation and Venezuela (Bolivarian Republic of) made statements in explanation of vote before the vote. In their statements, the representatives of China and Venezuela (Bolivarian Republic of) disassociated the delegations from the consensus on the draft resolution as orally revised.

29. At the same meeting, the draft resolution, as orally revised, was adopted without a vote. For the text of resolution S-26/1 as adopted, see chapter I.

30. Also at the same meeting, the representative of the United States of America made a statement as an observer State with regard to the adopted resolution.

## III. Report of the Human Rights Council on its twenty-sixth special session

31. At its 2nd meeting, on 14 December 2016, the Human Rights Council adopted the report on its twenty-sixth session ad referendum and entrusted the Rapporteur with its finalization.

# Annex

## Documents issued for the twenty-sixth special session of the Human Rights Council

*In the general series*

| | |
|---|---|
| A/HRC/S-26/1 | Letter dated 9 December 2016 from the Permanent Representatives of Albania, Paraguay and the United Kingdom of Great Britain and Northern Ireland to the United Nations Office at Geneva and the Representative of the United States of America to the Human Rights Council addressed to the President of the Council |
| A/HRC/S-26/2 | Report of the Human Rights Council on its twenty-sixth special session |

*In the limited series*

| | |
|---|---|
| A/HRC/S-26/L.1 | Situation of human rights in South Sudan |